

**GIBSON, DUNN & CRUTCHER LLP**

Theodore J. Boutrous, Jr., *pro hac vice* forthcoming

tboutrous@gibsondunn.com

333 South Grand Avenue

Los Angeles, CA 90071

Telephone: 213.229.7000

Facsimile: 213.229.7520

**WATANABE ING LLP**

Melvyn M. Miyagi #1624-0

mmiyagi@wik.com

Ross T. Shinyama #8830-0

rshinyama@wik.com

Summer H. Kaiawe #9599-0

skaiawe@wik.com

999 Bishop Street, Suite 1250

Honolulu, HI 96813

Telephone: 808.544.8300

Facsimile: 808.544.8399

Attorneys for Defendants

CHEVRON CORPORATION

and CHEVRON U.S.A., INC.

**UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF HAWAII**

COUNTY OF MAUI,

Plaintiff,

v.

SUNOCO LP; ALOHA PETROLEUM,  
LTD.; ALOHA PETROLEUM LLC;  
EXXON MOBIL CORP.; EXXONMOBIL  
OIL CORPORATION; ROYAL DUTCH  
SHELL PLC; SHELL OIL COMPANY;  
SHELL OIL PRODUCTS COMPANY  
LLC; CHEVRON CORP; CHEVRON  
USA INC.; BHP GROUP LIMITED; BHP  
GROUP PLC; BHP HAWAII INC.; BP

CASE NO.: 20-cv-00470

**DECLARATION OF  
MELVYN M. MIYAGI IN  
SUPPORT OF NOTICE OF  
REMOVAL**

[Removal from the Circuit Court  
of the Second Circuit, State of  
Hawai'i]

Action Filed: October 12, 2020

PLC; BP AMERICA INC.; MARATHON  
PETROLEUM CORP.;  
CONOCOPHILLIPS;  
CONOCOPHILLIPS COMPANY;  
PHILLIPS 66; PHILLIPS 66 COMPANY;  
AND DOES 1 through 100, inclusive,

Defendants.

**DECLARATION OF MELVYN M. MIYAGI  
IN SUPPORT OF NOTICE OF REMOVAL**

I, Melvyn M. Miyagi, declare as follows:

1. I am an attorney admitted to practice law before all courts of the State of Hawai‘i and in the United States District Court for the District of Hawaii.

2. I am a partner at the law firm of Watanabe Ing LLP. My firm represents Chevron Corp. and Chevron U.S.A. Inc. (the “Chevron Parties”), and I am one of the attorneys responsible for the preparation of the Chevron Parties’ Notice of Removal, filed concurrently herewith.

3. I have consulted with my clients, and I have been informed that the Chevron Parties were served by Plaintiff the County of Maui with a copy of the Complaint and Summons filed in the Circuit Court of Hawai‘i on October 12, 2020. The Notice of Removal is being filed not more than thirty (30) days after the Chevron Parties were served with a copy of the initial pleading setting forth the claims for relief upon which this action is based. 28 U.S.C § 1446(b).

4. While the consent of the other Defendants is not required because removal does not proceed “solely under 28 U.S.C § 1441,” “all defendants who have

been properly joined and served” consent to the removal of this action. 28 U.S.C. § 1446(b)(2)(A). Such consents were provided to counsel for the Chevron Parties in correspondence with the other served Defendants and/or their counsel.

5. Unless otherwise stated, the following facts are within my personal knowledge through personal review of the documents and information described herein or through information gathered and provided to me by individuals at my firm, at my direction. If called and sworn as a witness, I could and would testify competently thereto.

6. Pursuant to 28 U.S.C § 1446(a), attached hereto as **Exhibit 1** are copies of all process, pleadings, and orders from the state court action being removed to this Court that the Chevron Parties have been able to obtain from the Circuit Court of Hawai‘i, which are in the possession of the Chevron Parties. Pursuant to 28 U.S.C § 1446(a), this constitutes “a copy of all process, pleadings, and orders” received by the Chevron Parties in the action.

7. Attached hereto as **Exhibit 2** is a true and correct copy of Steven Rattner’s article, *Long-Inactive Oilfield is Open—for Now*, published in *The New York Times* on October 31, 1977.

8. Attached hereto as **Exhibit 3** is a true and correct copy of Robert Lindsey’s article, *Elk Hills Reserve Oil Will Flow Again*, published in *The New York Times* on July 3, 1976.

9. Attached hereto as **Exhibit 4** is a true and correct copy of a Mineral Lease of Submerged Lands Under the Outer Continental Shelf Lands Act, Form MMS-2004 (June 1991).

10. Attached hereto as **Exhibit 5** is a true and correct copy of an Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act, Form BOEM-2005 (February 2017).

11. Attached hereto as **Exhibit 6** is a true and correct copy of the June 19, 1944 Unit Plan Contract between the Navy Department and Standard Oil Company of California.

12. Attached hereto as **Exhibit 7** is a true and correct copy of an Oil and Gas Lease Under the Mineral Lands Leasing Act, Form 3100-11 (October 2008).

13. Attached hereto as **Exhibit 8** is a true and correct excerpted copy of the Comprehensive Energy Plan, House of Representatives Document Number 93-406, dated December 10, 1974.

14. Attached hereto as **Exhibit 9** is a true and correct copy of the records of the Proceedings and Debates on the Outer Continental Shelf Lands Act Amendments of 1975, Congressional Record pages S903-11, dated January 27, 1975.

15. Attached hereto as **Exhibit 10** is a true and correct excerpted copy of John W. Frey and H. Chandler Ide's *A History of the Petroleum Administration for War*, published in 1946.

16. Attached hereto as **Exhibit 11** is a true and correct copy of *Growing Blanket of Carbon Dioxide Raises Earth's Temperature*, published in *Popular Mechanics* in August 1953.

17. Attached hereto as **Exhibit 12** is a true and correct copy of W.K.'s *How Industry May Change Climate*, published in *The New York Times* on May 24, 1953.

18. Attached hereto as **Exhibit 13** is a true and correct copy of *Invisible Blanket*, published in *Time Magazine* on May 25, 1953.

19. Attached hereto as **Exhibit 14** is a true and correct copy of *Warming up the World*, published in the *Honolulu Advertiser* on September 29, 1955.

20. Attached hereto as **Exhibit 15** is a true and correct copy of *Carbon Dioxide May Vary Climate*, published in the *Honolulu Advertiser* on July 16, 1956.

21. Attached hereto as **Exhibit 16** is a true and correct copy of page A1 of the December 8, 1957 edition of *The Washington Post*, as reprinted on ProQuest Historical Newspapers.

22. Attached hereto as **Exhibit 17** is a true and correct copy of the report on the Production by Operator Ranked by Volume for the Gulf of Mexico Region between 1947 and 1995, published by the Minerals Management Service ("MMS") of the U.S. Department of the Interior on December 22, 2000.

23. Attached hereto as **Exhibit 18** is a true and correct excerpted copy of the records of the Hearings before the Committee on Naval Affairs of the House of

Representatives on Estimates Submitted by the Secretary of the Navy, which took place in 1915, reprinting excerpts of President William H. Taft's September 6, 1910 address at the Proceedings of the Second National Conservation Congress.

24. Attached hereto as **Exhibit 19** is a true and correct copy of President William H. Taft's executive order dated September 2, 1912, as excerpted from a book titled *Oil Leasing Lands – Hearings Before the Committee on the Public Lands*, published in 1918.

25. Attached hereto as **Exhibit 20** is a true and correct excerpted copy of Daniel Yergin's *The Prize: The Epic Quest for Oil, Money & Power*, published in 1991.

26. Attached hereto as **Exhibit 21** is a true and correct excerpted copy of Ian O. Lessor's, *Resources and Strategy: Vital Materials in International Conflict 1600 – The Present*, published in 1989.

27. Attached hereto as **Exhibit 22** is a true and correct copy of a telegram from P.M. Robinson, Petroleum Administration for War ("PAW") Assistant Director of Refining, to Ralph K. Davies, PAW Deputy Administrator, dated August 12, 1942.

28. Attached hereto as **Exhibit 23** is a true and correct excerpted copy of the National Petroleum Council's, *A National Oil Policy for the United States*, published in 1949.

29. Attached hereto as **Exhibit 24** is a true and correct excerpted copy of a Statement of Senator Joseph C. O'Mahoney, Chairman of the United States Senate Special Committee Investigating Petroleum Resources, made on November 28, 1945, stating, in part: "No one who knows even the slightest bit about what the petroleum industry contributed to the war can fail to understand that it was, without the slightest doubt, one of the most effective arms of this Government . . . in bringing about a victory," at page 1.

30. Attached hereto as **Exhibit 25** is a true and correct excerpted copy of Jay Hakes's *A Declaration of Energy Independence*, published in 2008.

31. Attached hereto as **Exhibit 26** is a true and correct excerpted copy of the Report by the Ad Hoc Select Committee on the Outer Continental Shelf, published in House Report No. 94-1084 in 1976.

32. Attached hereto as **Exhibit 27** is a true and correct excerpted copy of the Outer Continental Shelf Lands Act Amendments of 1977, published in House Report No. 95-590.

33. Attached hereto as **Exhibit 28** is a true and correct copy of Texas Association of Realtors' Form TAR-2101.

34. Attached hereto as **Exhibit 29** is a true and correct copy of a Statement of Gerald D. Morgan, Special Counsel to the Committee on Naval Affairs, Hearing on Amendment Proposed to Unit Plan Contract Governing Development and

Operation of Naval Reserve Petroleum No. 1 (Elk Hills), U.S. House of Representatives, Committee on Naval Affairs, at 3737–38, made on September 9, 1946.

35. Attached hereto as **Exhibit 30** is a true and correct copy of Statements of Commodore W.G. Greenman, U.S. Navy, Director, Naval Petroleum Reserves, Hearing Records at 3693–94, made on March 28, 1946.

36. Attached hereto as **Exhibit 31** is a true and correct copy of Records Concerning Reserves in the U.S. and PAW Districts 1941-45, Elk Hills, collected at the National Archives in Suitland, Maryland.

37. Attached hereto as **Exhibit 32** is a true and correct copy of the Operating Agreement between Navy Department and Standard Oil Company of California, Relating to Naval Petroleum Reserve No. 1 (Elk Hills), dated November 3, 1971, Contract No. NOd-9930.

38. Attached hereto as **Exhibit 33** is a true and correct copy of a letter from J.R. Grey, President of the Standard Oil Company of California, to Jack L. Bowers, Secretary of the Navy, requesting to terminate its position as Operator of the Elk Hills Reserve, dated January 7, 1975.

39. Attached hereto as **Exhibit 34** is a true and correct excerpted copy of History of Naval Petroleum Reserve No. 1 (Elk Hills) 1912-1987, prepared by Systematic Management Services, Inc., published on May 15, 1989.



40. Attached hereto as **Exhibit 35** is a true and correct excerpted copy of a Statement of Hon. John F. O’Leary, Administrator, Federal Energy Administration (“FEA”) at a Hearing before the Senate Committee on Interior and Insular Affairs, on FEA’s Strategic Petroleum Reserve Plan Submitted to the Congress for Review Pursuant to Public Law 94-163, held on February 4, 1977.

41. Attached hereto as **Exhibit 36** is a true and correct copy of a Letter addressed to the Operator from L. Dennett, Associate Director for Royalty Management, United States Department of the Interior, Minerals Management Service (“MMS”), dated December 14, 1999.

42. Attached hereto as **Exhibit 37** is a true and correct copy of the news release, *MMS RIK Program to Help Fill Strategic Petroleum Reserve*, published by the MMS on May 31, 2007.

43. Attached hereto as **Exhibit 38** is a true and correct excerpted copy of a Statement of George A. Wilson, Director of Supply and Transportation Division, Wartime Petroleum Supply and Transportation, PAW, made to the Special Committee Investigating Petroleum Resources, S. Res. 36, on November 28, 1945.

44. Attached hereto as **Exhibit 39** is a true and correct excerpted copy of the remarks of Secretary Harold Ickes to the Conference of Petroleum Industry Chairmen on August 11, 1941.

45. Attached hereto as **Exhibit 40** is a true and correct excerpted copy of W.J. Sweeney's *Aircraft Fuels and Propellants, Report for the Army Air Force Scientific Advisory Group*, published in 1946.

46. Attached hereto as **Exhibit 41** is a true and correct excerpted copy of I. Waitz, S. Lukachko, and J. Lee's *Military Aviation and the Environment: Historical Trends and Comparison to Civil Aviation*, published in Volume 45 of the Journal of Aircraft at 2, in 2005.

47. Attached hereto as **Exhibit 42** is a true and correct excerpted copy of the *Handbook of Aviation Fuel Properties*, CRC Report No. 635, published by the Coordinating Research Council in 2004.

48. Attached hereto as **Exhibit 43** is a true and correct excerpted copy of the 1968 Historic American Engineering Record No. TX-76, War Emergency Pipeline Inch Lines Historic District, from the National Parks Service.

49. Attached hereto as **Exhibit 44** is a true and correct excerpted copy of the Certificate of Dissolution of War Emergency Pipelines, Inc., dated August 28, 1947.

50. Attached hereto as **Exhibit 45** is a true and correct excerpted copy of a Statement of W. Alton Jones, Chairman, Committee on Postwar Disposal of Pipe Lines, Refineries, and Tankers, at Hearings before the Special Committee Investigating Petroleum Resources made on November 15, 1945.

51. Attached hereto as **Exhibit 46** is a true and correct excerpted copy of the Fourth Annual Report of the Activities of the Joint Committee on Defense Production, printed at House Report No. 84-1, dated January 5, 1955.

52. Attached hereto as **Exhibit 47** is a true and correct excerpted copy of the Twenty-Fourth Annual Report of the Activities of the Joint Committee on Defense Production, dated January 17, 1975.

53. Attached hereto as **Exhibit 48** is a true and correct excerpted copy of the records of the Hearing on Senate Joint Resolution 176, To Authorize the Production of Petroleum from Naval Petroleum Reserve Numbered 1 (Elk Hills, Calif.), before the Subcommittee on National Stockpile and Naval Petroleum Reserve, of the Committee on Armed Services, United States Senate, held in December 1973.

54. Attached hereto as **Exhibit 49** is a true and correct copy of John W. Finney's article, *Fuel is Diverted for the Military*, printed in *The New York Times* on November 28, 1973.

55. Attached hereto as **Exhibit 50** is a true and correct excerpted copy of Gregory Pedlow and Donald Welzenbach's 1992 report, *The Central Intelligence Agency and Overhead Reconnaissance: The U-2 and OXCART Programs, 1954-1974*.

56. Attached hereto as **Exhibit 51** is a true and correct copy of CIA Doc. No. CIA-RDP90B00170R000100080001-5, Clarence L. Johnson, Development of the Lockheed SR-71 Blackbird, dated August 3, 1981.

57. Attached hereto as **Exhibit 52** is a true and correct excerpted copy of Ben Rich and Leo Janos's *Skunk Works*, published in 1994.

58. Attached hereto as **Exhibit 53** is a true and correct copy of CIA Doc No. CIA-RDP67B00074R000500400016-2, Contract No. AF33(657)-8577 (SH-511), dated August 14, 1962.

59. Attached hereto as **Exhibit 54** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500400012-6, Amendment No. 2 to Contract No. AF33(657)-5577 (SH-511), dated August 26, 1963.

60. Attached hereto as **Exhibit 55** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500440005-0, Concurrence in Contract No. SH-515 with Shell Oil Company, Project OXCART, dated September 20, 1963.

61. Attached hereto as **Exhibit 56** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500450004-0, Contract No. AF33(657)-13272 (SH-516), dated June 30, 1964.

62. Attached hereto as **Exhibit 57** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500440006-9, Contract No. AF33(657)-12525 (SH-515), dated September 20, 1963.

63. Attached hereto as **Exhibit 58** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500430003-3, Concurrence in Contract No. SH-514 with Shell Oil Company, New York, N.Y., dated June 28, 1963.

64. Attached hereto as **Exhibit 59** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500420006-1, Contract No. AF33(657)10449 (SH-513), dated February 25, 1963.

65. Attached hereto as **Exhibit 60** is a true and correct copy of CIA Doc. No. CIA-RDP67B00074R000500410006-2, Contract No. AF33(657)-8582 (SH-512), dated September 13, 1962.

66. Attached hereto as **Exhibit 61** is a true and correct copy of CIA Doc. No. CIA-RDP63-00313A000500130031-9, Summary of OSA Activities for Week Ending 21 August 1963, dated August 23, 1963.

67. Attached hereto as **Exhibit 62** is a true and correct chart of exemplary contracts between Tesoro Corporation and the U.S. Department of Defense, along with excerpts of the exemplary contracts described therein.

68. Attached hereto as **Exhibit 63** is a true and correct excerpted copy of the Department of Defense Handbook on Aerospace Fuels Certification, MIL-HDBK-510A, published in August 2014.

69. Attached hereto as **Exhibit 64** is a true and correct copy of the DLA Detail Specifications for Turbine Fuels, Aviation Kerosene Types, NATO F-34(JP-8), NATO F-35, and JP-8+100, MIL-DTL-83133E, dated April 1, 1999.

70. Attached hereto as **Exhibit 65** is a true and correct copy of the Department of Defense's *FSII Specifications*, MIL-DTL-85470B, dated June 1999.

71. Attached hereto as **Exhibit 66** is a true and correct excerpted copy of Air Force Wright Aeronautical Laboratory's *Military Jet Fuels, 1944-1987*, AFWAL-TR-87-2062, dated December 1987, available at <https://apps.dtic.mil/dtic/tr/fulltext/u2/a186752.pdf>.

72. Attached hereto as **Exhibit 67** is a true and correct excerpted copy of the Department of Army Technical Manual on Petroleum Handling Operations for Aviation Fuel, TM 10-1107, dated February 1960.

73. Attached hereto as **Exhibit 68** is a true and correct copy of Department of Defense's *Performance Specification, Inhibitor, Corrosion / Lubricity Improver Fuel Soluble*, MIL-PRF-25017H, dated August 2011.

74. Attached hereto as **Exhibit 69** is a true and correct excerpted copy of G.S. Callendar's *The Artificial Production of Carbon Dioxide and Its Influence on Temperature*, first published February 16, 1938, and reprinted by the Quarterly Journal of the Royal Meteorological Society, September 10, 2007.

75. Attached hereto as **Exhibit 70** is a true and correct copy of *Industrial Gases Warming Up Earth, Physicist Notes Here*, published in *The Washington Post* on May 5, 1953.

76. Attached hereto as **Exhibit 71** is a true and correct copy of *Scientist to See if Ice In Antarctic Is Melting*, published in the *Honolulu Star-Bulletin* on December 29, 1956.

77. Attached hereto as **Exhibit 72** is a true and correct excerpted copy of the records of the Independent Offices Subcommittee of the House Committee on Appropriations' Hearing on Appropriations for the International Geophysical Year, held on March 8, 1956.

78. Attached hereto as **Exhibit 73** is a true and correct copy of a Memorandum composed by Daniel Patrick Moynihan on September 17, 1969.

79. Attached hereto as **Exhibit 74** is a true and correct copy Hawaii Coastal Zone Management Program's *Effects on Hawaii of a Worldwide Rise in Sea Level Induced by the "Greenhouse Effect,"* dated 1985, available at <https://planning.hawaii.gov/wp-content/uploads/2013/04/Sea-Level-Rise-Effects-on-Hawaii-1985.pdf>.

80. Attached hereto as **Exhibit 75** is a true and correct excerpted copy of the World Meteorological Organization and United Nations Environment Programme's Intergovernmental Panel on Climate Change ("IPCC") 1990 First

Assessment Report, available at [https://www.ipcc.ch/site/assets/uploads/2018/05/ipcc\\_90\\_92\\_assessments\\_far\\_full\\_report.pdf](https://www.ipcc.ch/site/assets/uploads/2018/05/ipcc_90_92_assessments_far_full_report.pdf).

81. Attached hereto as **Exhibit 76** is a true and correct excerpted copy of the IPCC's 1995 Second Assessment Report, available at <https://archive.ipcc.ch/pdf/climate-changes-1995/ipcc-2nd-assessment/2nd-assessment-en.pdf>.

82. Attached hereto as **Exhibit 77** is a true and correct excerpted copy of the IPCC's 2001 Third Assessment Report, available at [https://www.ipcc.ch/site/assets/uploads/2018/05/SYR\\_TAR\\_full\\_report.pdf](https://www.ipcc.ch/site/assets/uploads/2018/05/SYR_TAR_full_report.pdf).

83. Attached hereto as **Exhibit 78** is a true and correct copy of the EPA's Guide to Climate Change, published in 2002.

84. Attached hereto as **Exhibit 79** is a true and correct excerpted copy of Daniel Yergin's *The New Map: Energy, Climate, and the Clash of Nations*, published September 15, 2020.

I declare under penalty of perjury under the laws of the State of Hawai'i and the United States of America that the foregoing is true and correct and that I executed this Declaration on October 30, 2020, in Honolulu, Hawai'i.

/s/ Melvyn M. Miyagi  
MELVYN M. MIYAGI